

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

14 Civ. 9949 (VEC)
(Lead Case)

-against-

U.S. OIL TRADING LLC, O.W. BUNKER
GERMANY GMBH, O.W. BUNKER & TRADING
A/S, O.W. BUNKER USA, INC., ING BANK N.V.,
CRÉDIT AGRICOLE CIB,

Defendants.

-----X
U.S. OIL TRADING LLC,

Plaintiff,

c/w 15 Civ. 6718 (VEC)

-against-

M/V VIENNA EXPRESS, her tackle, boilers, apparel,
furniture, engines, appurtenances etc., *in rem*, and M/V
SOFIA EXPRESS, her tackle, boilers, apparel, furniture,
engines, appurtenances etc., *in rem*,

Defendants.

-----X
HAPAG-LLOYD AKTIENGESELLSCHAFT, as
claimant to the M/V VIENNA EXPRESS,

Counter-Claimant and Third-Party Plaintiff,

-against-

U.S. OIL TRADING LLC,

**U.S. OIL TRADING
LLC's PROPOSED
FINDINGS OF FACT**

Counter-Defendant and

O.W. BUNKER GERMANY GMBH, O.W. BUNKER
& TRADING A/S, ING BANK N.V., and CRÉDIT
AGRICOLE CORPORATE AND INVESTMENT
BANK,

Third-Party Defendants.

-----X

U.S. Oil Trading LLC (“U.S. Oil”), by its undersigned attorneys, Clyde & Co US LLP, respectfully submits its Proposed Findings of Fact pursuant to Rule 7.C.ii of the Court’s Individual Practices, and states as follows:¹

1. At all relevant times, Mr. Kock oversaw all functions, duties and responsibilities of Hapag’s Purchasing Department and ensured the Vessels are properly supplied with the most cost efficient and energy efficient marine fuel (“bunkers”) on a timely basis. US-123, ¶ 3.

2. U.S. Oil’s bunker delivery receipts expressly provide that all disputes arising out of the subject delivery shall be interpreted and enforced in accordance with U.S. maritime law and all statutes related thereto. US-68; US-82; US-98; US-115; US-120, ¶ 14.

3. Neither Hapag nor anyone else from the Vessels objected to the U.S. choice of law clause in U.S. Oil’s bunker delivery receipts. US-120, ¶ 15.

4. Hapag may receive more than one bid from companies such as OW Germany in order to ensure the most competitive specifications (such as viscosity, sulfur, density, ash, and water) and pricing for any particular type of fuel. US-123, ¶ 7.

5. Hapag’s Purchasing Department utilizes a computer-based excel spreadsheet to input the specifications and price based on any particular bid received to determine which fuel presents the best energy content for the price quoted. US-123, ¶ 8.

6. Hapag’s Purchasing Department uses the names of the trader and actual supplier in the spreadsheet to generate immediately a Purchase Order Confirmation after the Fuel Purchasing Department decides which fuel to order/purchase from the seller. US-123, ¶ 8.

¹ These Proposed Findings of Fact incorporate by reference the stipulated facts set forth in the parties’ Joint Pretrial Order to avoid unnecessary duplication. U.S. Oil’s Pretrial Memorandum of Law, however, includes a statement incorporating the facts set forth in both of these documents.

7. Hapag's comparison charts included a section at the bottom identifying the physical supplier of the bunkers as the "Physischer Lieferant" (meaning "Physical Supplier"). US-59; US-75; US-90; US-106; US-117, 175:8-175:22.

8. Hapag's comparison charts included a column titled "Wahl" (meaning "Choice"), which included an "x" next to the winning bid. US-59; US-75; US-90; US-106; US-117, 175:2-175:4.

9. Hapag's comparison charts included a section at the bottom that identified the selected bidder as the "Verkäufer" (meaning "Seller"). US-59; US-75; US-90; US-106; US-117, 175:15.

10. It is important for each quantity of fuel delivered to all vessels owned and/or operated by Hapag to be of sound quality and to match the physical supplier's "typicals" as presented. US-123, ¶ 13.

11. The characteristics and quality of the fuel delivered to the vessel is important to Hapag. US-123, ¶ 13.

12. The pricing of the fuel plays an important role in the internal process used by Hapag to decide which fuel to order/purchase from a trader such as OW Germany. US-123, ¶ 14.

13. During the regular course of its business in 2014, U.S. Oil would receive regular communications from Norton Lilly, the local agent for Hapag and its Vessels at the Port of Tacoma, Washington, before Hapag's Vessels called at the Port of Tacoma, Washington to receive bunkers from U.S. Oil. US-121, ¶ 6.

14. U.S. Oil was never informed by Hapag, Norton Lilly, the Vessel's Masters or crew, any O.W. Bunker entity or anyone else that U.S. Oil was not authorized to deliver the

subject bunkers to Hapag's Vessels, or that Norton Lilly, the Vessels' Masters or crew or any O.W. Bunker entity lacked authority to order the subject bunkers on behalf of Hapag and its Vessels. US-121, ¶ 9.

U.S. OIL'S PRICE QUOTES AND RECEIPT OF PURCHASE ORDERS

15. During the regular course of its business in 2014, U.S. Oil received requests from OW USA to provide price quotes for the subject deliveries of bunkers by U.S. Oil to Hapag's Vessels calling at the Port of Tacoma, Washington. US-121, ¶ 4.

16. U.S. Oil provided such price quotes to OW USA in its regular course of business and did so for the subject deliveries to the Vessels at the Port of Tacoma, Washington in October 2014. US-121, ¶ 5.

17. During the regular course of its business in 2014, U.S. Oil also received purchase order confirmations from OW USA and Norton Lilly for Hapag sales made by U.S. Oil to OWT for bunkers provided by U.S. Oil to the Vessels at the Port of Tacoma, Washington. US-120, ¶ 9.

18. U.S. Oil received such purchase order confirmations from OW USA and from Norton Lilly for Hapag in its regular course of business and did so for the subject deliveries to the Vessels at the Port of Tacoma, Washington in October 2014. US-120, ¶ 10.

FACTS COMMON TO THE BUNKER TRANSACTIONS

19. If U.S. Oil could not provide the fuel for whatever reason, O.W. Germany was obligated to find a suitable substitute fuel, failing which Hapag and O.W. Germany would need to negotiate an adjustment of price between themselves. US-123, ¶ 12; US-45, ¶¶ 38, 43.

NORTON LILLY

20. Norton Lilly's communications with U.S. Oil included logistical information regarding Hapag's orders for deliveries of bunkers to Hapag's Vessels, including Hapag's purchase order reference number, the Vessel's name, the port of delivery of the bunkers (Tacoma), the estimated time of each Vessel's arrival, the quantity of bunkers to be delivered, the quality of the bunkers to be delivered and the identity of the physical supplier of the bunkers. US-121, ¶7.

21. U.S. Oil received such communications from Norton Lilly in its regular course of business and did so for the subject deliveries to the Vessels at the Port of Tacoma, Washington in October 2014. US-121, ¶8.

M/V SANTA ROBERTA

22. On September 30, 2014, Hapag's bunker purchasing manager, Lukas Gaus, sent an email to the Master of the SANTA ROBERTA confirming receipt of the Master's request for 2,700 metric tons of bunkers. US-54.

23. Hapag's Purchasing Department considered the appropriateness of the Master's request. Hapag's Purchasing Department had the final say as to whether to proceed with bunkering the SANTA ROBERTA. US-45, Hapag Resp. to ¶28.

24. On September 30, 2014, OW USA's Mr. Kai Zhou sent an email to U.S. Oil's Lee Weber asking if U.S. Oil was interested in supplying bunkers to the SANTA ROBERTA and stated in relevant part: "Typical specs will be needed." US-56.

25. Shortly thereafter, Mr. Weber responded by providing Mr. Zhou with typicals for U.S. Oil's RMK500 and the price range U.S. Oil would be willing to offer for the SANTA ROBERTA stem. US-56.

26. OW Germany submitted four (4) bids to Hapag for the supply of the SANTA ROBERTA. US-58; US-59.

27. Each bid submitted by OW Germany to Hapag for the supply of the SANTA ROBERTA included the name of the physical supplier, the typicals for the physical supplier's fuel, and location of the supply. US-58; US-59.

28. Hapag's comparison chart for the SANTA ROBERTA included multiple bids from OW Germany, GEFO, and Peninsula. Each bid from the respective company offered bunker fuel from a different physical supplier. US-59.

29. Specifically, Hapag's comparison chart included three (3) bids from O.W. Germany which listed U.S. Oil and Phillips66 as physical suppliers in Tacoma and O.W. Bunker North America as the physical supplier in Los Angeles. US-59.

30. Hapag included only three (3) of OW Germany's four (4) bids on Hapag's comparison chart. US-58; US-59.

31. OW Germany's bid listing U.S. Oil as the physical supplier offered a price of \$554 US/per metric ton. US-59.

32. That bid price represented the price per metric ton offered by U.S. Oil to OW USA plus the markup added by OW USA and OW Germany. US-59; US-69; JSF, ¶35.²

33. Based upon pricing, quality and energy content, Hapag's Purchasing Department found O.W. Germany's bid with U.S. Oil as the physical supplier represented the offer with the "lowest energy cost." US-59.

² References to "JSF, ¶" are references to the relevant paragraph in the stipulated facts submitted in the Joint Pretrial Order.

34. Hapag selected O.W. Germany's bid with U.S. Oil as the physical supplier after Hapag's analysis concluded that the price and quality of U.S. Oil's bunker represented the lowest energy cost to Hapag. US-58; US-59; US-60; US-64.

35. The bottom of Hapag's comparison chart for the SANTA ROBERTA lists the price for the SANTA ROBERTA supply as \$1,495,800. US-59.

36. The price listed for the supply of the SANTA ROBERTA is the same as the price listed for the OW Germany bid with U.S. Oil as the physical supplier (\$1,495,800). US-59.

37. The price listed for the supply of the SANTA ROBERTA was calculated by multiplying the price per metric ton offered in OW Germany's bid listing U.S. Oil as the physical supplier (\$554 per metric ton) by the amount of bunkers requested (2,700 metric tons). US-59.

38. Hapag admits that O.W. Germany was permitted and required to find a substitute fuel of similar specifications and price if U.S. Oil was unable to act as the physical supplier for the SANTA ROBERTA stem on or about October 9, 2014. US-45, Hapag Resp. to ¶¶ 38, 43.

39. On October 1, 2014, Hapag's Mr. Gaus also sent an email to Hapag's port agent, Norton Lilly, which states, "BUNKER ORDER INFORMATION: Santa Roberta / TACOMA, WA[,]” and contains the details of Hapag's order for the subject delivery of bunker fuel by physical supplier U.S. Oil to the SANTA ROBERTA. US-62.

40. Hapag's email dated October 1, 2014 to Norton Lilly included the following information: Hapag's purchase order reference number (4504069984), the Vessel's name (SANTA ROBERTA), the port of delivery (Tacoma), the estimated time of the Vessel's arrival (October 9, 2014), the quantity of bunkers to be delivered by U.S. Oil (2,700 metric tons), the quality of the fuel to be delivered by U.S. Oil (RMK 500 Max 3.50% sulfur) and the identity of the supplier (U.S. Oil). Doc. No. 224-10, Ex. J.; US-62; US-61.

41. Shortly thereafter on the same day, Norton Lilly's Operations Manager, Heath Albright, sent an email to Hapag's Mr. Gaus which states in relevant part: "Thanks for your below. We will arrange accordingly for delivery upon arrival in Tacoma." US-62.

42. By email dated October 7, 2014, Norton Lilly forwarded a schedule of arrival procedures to the Master of the SANTA ROBERTA, with copy to Lee Weber of U.S. Oil, indicating U.S. Oil would deliver bunkers to the Vessel on October 9, 2014. OW Germany and OW USA are not copied on Hapag's email. US-67.

43. On October 9, 2014, U.S. Oil delivered approximately 2,700.11 metric tons of bunker fuel to the M/V SANTA ROBERTA by barge at the Port of Tacoma. US-68; US-45, Hapag's Resp. to ¶ 53.

44. Pursuant to Invoice No. BWTD 83441, payment was due to U.S. Oil on or before November 8, 2014. US-69.

45. U.S. Oil has not been paid for the amounts due under Invoice No. BWTD 83441, despite demands for payment. US-45, Hapag Resp. to ¶ 59.

M/V SEASPACE HAMBURG

46. Hapag's Purchasing Department considered the appropriateness of the Master's request. Hapag's Purchasing Department had the final say as to whether to proceed with bunkering the M/V SEASPACE HAMBURG. US-117, 48:16-49:4.

47. OW Germany submitted four (4) bids to Hapag to supply the SEASPACE HAMBURG. US-89.

48. Each bid submitted by OW Germany to Hapag for the supply of the SEASPACE HAMBURG included the name of the physical supplier, typicals for the physical supplier's fuel, and location of the supply. US-89.

49. Hapag's comparison chart for the SEASPACE HAMBURG included multiple bids from OW Germany, GEFO, and Peninsula. US-90.

50. Specifically, Hapag's comparison chart included two (2) bids from O.W. Germany, one which lists "P66" as the physical supplier for delivery in Oakland and "US Oil" as the physical supplier for delivery in Tacoma. US-90.

51. Hapag included only two (2) of the four (4) bids submitted by O.W. Germany on Hapag's comparison chart. US-89; US-90.

52. OW Germany's bid listing U.S. Oil as the physical supplier offered a price of \$523 US/per metric ton. US-90.

53. That bid price represented the price per metric ton offered by U.S. Oil to OW USA plus markup added by OW USA and OW Germany. US-90; US-99; JSF, ¶62.

54. Based upon pricing quality and energy content, Hapag's Purchasing Department found OW Germany's bid with U.S. Oil as the supplier represented the offer with the "lowest energy cost." US-89; US-90; US-91; US-94.

55. Hapag selected O.W. Germany's bid with U.S. Oil as the physical supplier after Hapag's analysis concluded that the price and quality of U.S. Oil's bunker represented the lowest energy cost to Hapag. US-90.

56. The bottom of Hapag's comparison chart for the SEASPACE HAMBURG lists the price for the SEASPACE HAMBURG supply as \$1,516,700. US-90.

57. The price listed for the supply of the SEASPACE HAMBURG is the same as the price listed for the OW Germany bid with U.S. Oil as the physical supplier (\$1,516,700). US-90.

58. The price listed for the supply of the SEASPACE HAMBURG was calculated by multiplying the price per metric ton offered in OW Germany's bid listing U.S. Oil as the physical supplier (\$523 per metric ton) by the amount of bunkers requested (2,900 metric tons). US-90.

59. Hapag admits that O.W. Germany was permitted and required to find a substitute fuel of similar specifications and price if U.S. Oil was unable to act as the physical supplier for the SEASPACE HAMBURG stem on or about October 16, 2014. US-45, Hapag Resp. to ¶¶ 106, 115.

60. On October 10, 2014, Hapag's Mr. Gaus also sent an email to Hapag's port agent, Norton Lilly, which states "BUNKER ORDER INFORMATION: MV Seaspans Hamburg / TACOMA, WA[," and contains the details of Hapag's order for the subject delivery of bunker fuel by physical supplier U.S. Oil to the SEASPACE HAMBURG. US-92.

61. The email dated October 10, 2014 to Norton Lilly included the following information: Hapag's purchase order reference number (4504073597), the Vessel's name (M/V SEASPACE HAMBURG), the port of delivery (Tacoma), the estimated time of the Vessel's arrival, the quantity of bunker to be delivered by U.S. Oil (2,900 metric tons), the type of the fuel to be delivered by U.S. Oil (RMK 700 Max 3.50% sulfur) and the identity of the supplier (U.S. Oil). US-92.

62. By email dated October 10, 2014, Norton Lilly forwarded Hapag's BUNKER ORDER INFORMATION email to U.S. Oil. OW Germany and OW USA are not copied on Hapag's email. Nor are OW Germany and OW USA copied on Norton Lilly's email to U.S. Oil's Mr. Weber. US-93.

63. On October 16, 2014, U.S. Oil delivered approximately 2,900.21 metric tons of bunker fuel to the M/V SEASPACE HAMBURG by barge at the Port of Tacoma. US-98; US-45, Hapag Resp. to ¶ 116.

64. Pursuant to Invoice No. BWTD 83450, payment was due to U.S. Oil on or before November 17, 2014. US-99.

65. U.S. Oil has not been paid for the amounts due under Invoice No. BWTD 83450, despite demands for payment. US-99; US-45, Hapag Resp. to ¶ 121.

M/V SOFIA EXPRESS

66. Hapag's Fuel Department considered the appropriateness of the Master's request. Hapag's Fuel Department had the final say as to whether to proceed with bunkering the SOFIA EXPRESS. US-117, 48:16-49:4.

67. On October 22, 2014, O.W. USA's Mr. Zhou sent an instant message to U.S. Oil's Mr. Weber which states in relevant part: "Hello, we are still looking at 490 at least for Sofia . . ." US-104.

68. In response, U.S. Oil's Mr. Weber sent two instant messages to O.W. USA's Mr. Zhou which state in relevant part: "I would do 490 on the one[. N]ot happy but would do[.]" US-104.

69. OW Germany submitted two (2) bids to Hapag to supply the SOFIA EXPRESS. *See* US-105.

70. Each bid submitted by OW Germany to Hapag for the supply of the SOFIA EXPRESS included the name of the physical supplier, typicals for the physical supplier's fuel, and location of the supply. US-105.

71. Hapag included only one of the two bids submitted by OW Germany on Hapag's comparison chart. US-105; US-106.

72. OW Germany's bid listing U.S. Oil as the physical supplier offered a price of \$492 US/per metric ton. US-106.

73. That bid price represented the price per metric ton offered by U.S. Oil to OW USA plus the markup added by OW USA and OW Germany. US-104; US-106; US-116; JSF, ¶88.

74. Based upon pricing, quality, and energy content, Hapag's Fuel Department found O.W. Germany's bid with U.S. Oil as the physical supplier represented the offer with the "lowest energy cost." US-106.

75. Hapag selected O.W. Germany's bid with U.S. Oil as the physical supplier after Hapag's analysis concluded that the price and quality of U.S. Oil's bunkers represented the lowest energy cost to Hapag. US-105; US-106; US-107; US-109.

76. The bottom of Hapag's comparison chart for the SOFIA EXPRESS lists the price for the SOFIA EXPRESS supply as \$1,328,400. US-106.

77. The price listed for the supply of the SOFIA EXPRESS is the same as the price listed for the OW Germany bid with U.S. Oil as the physical supplier (\$1,328,400). US-106.

78. The price listed for the supply of the SOFIA EXPRESS was calculated by multiplying the price per metric ton offered in OW Germany's bid listing U.S. Oil as the physical supplier (\$492 per metric ton) by the amount of bunkers requested (2,700 metric tons). US-106.

79. Hapag admits that O.W. Germany was permitted and required to find a substitute fuel of similar specifications and price if U.S. Oil was unable to act as the physical supplier for the SOFIA EXPRESS stem on or about October 29, 2014. US-45, Hapag's Resp. to ¶¶ 133; 137.

80. On October 23, 2014, Hapag's Ms. Niemeyer also sent an email to Hapag's port agent, Norton Lilly, which states "BUNKER ORDER INFORMATION: Sofia Express / TACOMA, WA[," and contains the details of Hapag's order for the subject delivery of bunker fuel by physical supplier U.S. Oil to the SOFIA EXPRESS. US-108.

81. The email dated October 23, 2014 to Norton Lilly included the following information: Hapag's purchase order reference number (4504078460), the Vessel's name (SOFIA EXPRESS), the port of delivery (Tacoma), estimated time of the Vessel's arrival (October 29, 2014), the quantity of bunkers to be delivered by U.S. Oil (2,700 metric tons), the type of bunkers to be delivered by U.S. Oil (RMK 700 Max 3.50% sulfur) and the identity of the supplier (U.S. Oil). US-108.

82. On October 29, 2014, U.S. Oil delivered approximately 2,680.22 metric tons of bunker fuel to the SOFIA EXPRESS by barge at the Port of Tacoma. US-115; US-45, Hapag Resp. to ¶ 149.

83. Pursuant to Invoice No. BWTD 83463, payment was due to U.S. on or before November 28, 2014. US-116.

84. U.S. Oil has not been paid for the amounts due under Invoice No. BWTD 83463 despite demands for payment. US-45, Hapag Resp. to ¶ 154.

M/V VIENNA EXPRESS

85. Hapag's Fuel Department considered the appropriateness of the Master's request. Hapag's Fuel Department has the final say as to whether to proceed with bunkering the VIENNA EXPRESS. US-117, 48:16-49:4.

86. On October 8, 2014, O.W. USA's Mr. Zhou sent an email to U.S. Oil's Mr. Weber which states in relevant part: "Please have a look for today's overnightr[," and lists the

VIENNA EXPRESS, the Port of Tacoma, the estimate delivery date on October 16, 2014, and the amount and quality of the bunkers requested (2,700 metric tons of RMK 700). US-73.

87. Less than two (2) hour later, U.S. Oil's Mr. Weber sent an email to O.W. USA's Mr. Zhou which states: "Let's get this one[.]" US-73.

88. OW Germany submitted three (3) bids to Hapag to supply the VIENNA EXPRESS. US-74.

89. Each bid submitted by OW Germany to Hapag for the supply of the VIENNA EXPRESS included the name of the physical supplier, typicals for the physical supplier's fuel, and location of the supply. US-74.

90. Hapag included only one of the three (3) bids submitted by OW Germany on Hapag's comparison chart. US-74; US-75.

91. OW Germany's bid listing U.S. Oil as the physical supplier offered a price of \$528 US/per metric ton. US-75.

92. That bid price represented the price per metric ton offered by U.S. Oil to OW USA plus the markup added by OW USA and OW Germany. US-75; JSF, ¶114.

93. Based upon pricing, quality, and energy content, Hapag's Fuel Department found O.W. Germany's bid with U.S. Oil as the physical supplier represented the offer with the "lowest energy cost." US-75.

94. Hapag selected the bid listing U.S. Oil as the physical supplier after Hapag's analysis concluded that the price and quality of U.S. Oil's bunkers represented the lowest energy cost to Hapag. US-74; US-75; US-76; US-79.

95. The bottom of Hapag's comparison chart for the VIENNA EXPRESS lists the price for the VIENNA EXPRESS supply as \$1,425,600. US-75.

96. The price listed for the supply of the VIENNA EXPRESS is the same as the price listed for the OW Germany bid with U.S. Oil as the physical supplier (\$1,425,600). US-75.

97. The price listed for the supply of the VIENNA EXPRESS was calculated by multiplying the price per metric ton offered in OW Germany's bid listing U.S. Oil as the physical supplier (\$528 per metric ton) by the amount of bunkers requested (2,700 metric tons). US-75.

98. Hapag admits that O.W. Germany was permitted and required to find a substitute fuel of similar specifications and price if U.S. Oil was unable to act as the physical supplier for the VIENNA EXPRESS stem on or about October 16, 2014. US-45, Hapag Resp. to ¶¶ 71, 75.

99. On October 9, 2014, Hapag's Ms. Niemeyer also sent an email to Hapag's port agent, Norton Lilly, which states, "BUNKER ORDER INFORMATION: Vienna Express / TACOMA, WA[," and contains the details of Hapag's order for the subject delivery of bunker fuel by physical supplier U.S. Oil to the VIENNA EXPRESS. US-77.

100. The email dated October 9, 2014 to Norton Lilly included the following information: Hapag's purchase order reference number (4504073073), the Vessel's name (M/V VIENNA EXPRESS), the port of delivery (Tacoma), the estimated time of the Vessel's arrival (October 16, 2014), the quantity of bunkers to be delivered by U.S. Oil (2,700 metric tons), the quality of the fuel to be delivered by U.S. Oil (RMK 500 Max 3.50% sulfur), and the identity of the supplier (U.S. Oil). US-77.

101. By email dated October 9, 2014, Norton Lilly forwarded Hapag's BUNKER ORDER INFORMATION email to U.S. Oil. OW Germany and OW USA are not copied on Hapag's email. Nor are OW Germany and OW USA copied on Norton Lilly's email to U.S. Oil's Mr. Weber. US-78.

102. On October 18, 2014, U.S. Oil delivered approximately 2,710.93 metric tons of bunker fuel to the M/V VIENNA EXPRESS by barge at the Port of Tacoma. US-82; US-45, Hapag Resp. to ¶ 84.

103. Pursuant to Invoice No. BWTD 83451, payment was due to U.S. Oil on or before November 17, 2014. US-83.

104. U.S. Oil has not been paid for the amounts due under Invoice No. BWTD 83451 despite demands for payment. US-45, Hapag Resp. to ¶ 89.

Dated: October 11, 2019
New York, New York

CLYDE & CO US LLP

By: /s/ John R. Keough
John R. Keough
George G. Cornell
Laura L. Gongaware
The Chrysler Building
405 Lexington Avenue, 16th Floor
New York, New York 10174
Tel.: (212) 710-3900
Fax: (212) 710-3950

Attorneys for U.S. Oil Trading LLC